

052
No. 15682

United States
Court of Appeals
for the Ninth Circuit

CLACKAMAS MEAT CO., INC., a Corporation,
Appellant,
vs.

UNITED STATES OF AMERICA,
Appellee.

Transcript of Record

Appeal from the United States District Court for the
District of Oregon

FILED

1957

PAUL P. O'NEILL

No. 15682

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for the Ninth Circuit

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[Clerk's Note: When deemed likely to be of an important nature errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS

MAGUIRE, SHIELDS, MORRISON & BAILEY,
WALTER J. COSGRAVE,

723 Pittock Block,
Portland 5, Oregon,

For Appellant.

C. E. LUCKEY,
United States Attorney;

GEORGE E. JUBA,
Assistant U. S. Attorney, District of Oregon,
506 United States Courthouse,
Portland, Oregon,

For Appellee.

In the United States District Court
for the District of Oregon

Civil 8579

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLACKAMAS MEAT CO. INC., an Oregon Corpo-
ration,

Defendant.

COMPLAINT

1. This is a civil action brought by the United States of America pursuant to Section 1345 of Title 28, USC.

2. The defendant, Clackamas Meat Company, Inc., was at all times mentioned herein, an Oregon corporation organized under the laws of the State of Oregon and doing business in the State and District of Oregon.

3. Pursuant to the first proviso of Section 2(e) of the Emergency Price Control Act of 1942, as amended (50 U.S.C. App. 902 (e)), Defense Supplies Corporation and its successor, Reconstruction Finance Corporation, conducted, at the times herein mentioned, a meat subsidy program under which certain subsidy payments were made to qualified livestock slaughterers. The basic regulations which established the terms and conditions under which such subsidy payments were to be made during the periods involved in this complaint are Reconstruc-

tion Finance Corporation's Livestock Slaughter Payments Regulation No. 3 (8 F.R. 10826), 32 C.F.R. Part 7003.1 (Supps. 1943, 1944) effective June 7, 1943, Revised Regulation No. 3 (10 F.R. 4241), 32 C.F.R. Part 7003.1 (Supp. 1945) as amended, effective January 19, 1945, and Office of Economic Stabilization Directive 41 (10 F.R. 4494), 32 C.F.R. Part 4004.1 (Supps. 1945, 1946, 1947), as amended, effective April 24, 1945.

4. As an incident of the meat subsidy program, on December 18, 1947, the Reconstruction Finance Corporation issued two orders, certified copies of which orders are annexed hereto as Exhibit A, invalidating defendant's subsidy claims in the total amount of \$16,472.81 which were paid upon preliminary approval only.

5: Section 5(d) of Regulation No. 3 (8 F.R. 10826) and Section 7003.9(d), and subsection (e) added thereto by Amendment No. 3 (10 F.R. 8073, 11153), of Revised Regulation No. 3 (10 F.R. 4241) provide that, upon a finding by the administrative agency that the claim which had been preliminarily approved was invalid, or defective, it had the right to require restitution in whole or in part. An official audit disclosed errors in claims for the monthly periods of May, 1945, through October, 1946, in the total amount of subsidy overpayments for those periods of \$16,324.91, for which a claim receivable was established on December 18, 1947.

6. Section 4 of Regulation No. 3 (8 F.R. 10826), and Section 7003.4 of Revised Regulation No. 3

(10 F.R. 4241) provide that records supporting the subsidy claims shall be preserved for inspection during the times herein stated, and that upon failure of compliance with this section the administrative agency shall have the right to invalidate the claims for the affected reporting periods. Amendment No. 9 to Supplemental Order No. 189 (20 F.R. 9460), issued jointly by the Department of Agriculture, RFC, and the Department of Commerce, effective January 1, 1956, extends the period for the preservation of records to January 1, 1957. On or before December 18, 1947, the Reconstruction Finance Corporation determined that the defendant failed to comply with the terms of this section for the monthly reporting periods of May, 1945, through October, 1946, and therefore invalidated the respective claims. The claims had previously been paid upon preliminary approval only, in the total amount of \$16,324.91 for which a claim receivable was established.

7. Announcement No. 1 under Reconstruction Finance Corporation Regulation No. 10 provided that subsidies paid upon meat held in inventory at the close of business on October 14, 1946 (termination date of price controls on meat), shall be recaptured. The defendant was paid a subsidy in the amount of \$147.90 on meat held in inventory. Pursuant to the terms of the Announcement, and in accordance with Section 7003.9(d) of Revised Regulation No. 3, on December 18, 1947, Reconstruction Finance Corporation invalidated the subsidy claims

based upon such inventories and ordered restitution thereof.

8. The plaintiff has made repeated demands upon the defendant for the payment of the claim justly due and owing the plaintiff in the sum of \$16,472.81 together with interest from the dates of payment at the rate of 4% per annum. Defendant refused and continues to refuse to pay said debt.

Wherefore, the plaintiff demands judgment in the sum of \$16,472.81 and interest from the dates of payment to the date of judgment at the rate of 4% per annum, and costs of suit.

C. E. LUCKEY,
United States Attorney,
District of Oregon;

/s/ THOMAS B. BRAND,
Assistant United States Attorney, of Attorneys for
Plaintiff.

EXHIBIT A

Reconstruction Finance Corporation
Washington

Certificate

Pursuant to the provisions of Section 1733 (b), Chapter 115, Title 28 of the United States Code, as amended,

I, M. W. Knarr, Secretary of Reconstruction Finance Corporation, a corporation created and ex-

isting pursuant to the Reconstruction Finance Corporation Act, approved January 22, 1932 (47 Stat. 5), as amended [successor to Defense Supplies Corporation, pursuant to Joint Resolution approved June 30, 1945 (59 Stat. 310)], do hereby certify that the annexed two (2) photostatic pages are true and correct copies of——

File copies of:

Letter dated December 18, 1947, from M. B. Hill, Assistant Manager, to Clackamas Meat Co., Box 44, Clackamas, Oregon; and

Letter dated December 18, 1947, from M. B. Hill, Assistant Manager, to Clackamas Meat Co., Box 44, Clackamas, Oregon;

in my custody as part of the official records of Reconstruction Finance Corporation.

In Witness Whereof, I have hereunto set my hand and caused the seal of Reconstruction Finance Corporation to be affixed at Washington, D. C., on this 17th day of November, 1954.

[Seal] /s/ M. W. KNARR,
Secretary, Reconstruction
Finance Corporation.

December 18, 1947.

Registered Mail 339403,
Return Receipt Requested.

Clackamas Meat Co.,
Box 44,
Clackamas, Oregon.

Gentlemen:

Re: Meat Subsidy Inventory
Recapture Claim Receivable.

We are herewith making formal demand for immediate payment of our past due Inventory Recapture Claim Receivable against you in the amount of \$147.90. The claim represents the amount due on Inventory Recapture computed as of October 14, 1946. You have been mailed a copy of our adjustment sheet in which we explained the charge and the reason therefor.

If this claim is paid on or before January 1, 1948, no interest will be charged. After that date, however, interest will accrue at the rate of 4% per annum.

In the event this claim is not paid within a reasonable time or satisfactory arrangements made for the payment thereof, your account will be referred to the Department of Justice for action. We regret it is necessary to so advise you.

Claim Receivable set up on regular subsidy payment is being billed separately.

Very truly yours,

/s/ M. B. HILL,

Assistant Manager.

MLLundberg:EMS

RFC—Portland.

(File Copy.)

December 18, 1947.

Registered Mail 339403,

Return Receipt Requested.

Clackamas Meat Co.,

Box 44,

Clackamas, Oregon.

Gentlemen:

Re: Meat Subsidy

Claims Receivable.

We are herewith making formal demand for immediate payment of our past due claim against you, as set out below. The claim represents the balance due as refunds of meat subsidies previously paid and later disallowed. You have been mailed copies of Adjustment Sheets in which we explained the charges and reasons therefor.

Net balance of Claim Receivable including interest of 4% per annum from dates of overpayment to November 10, 1947..\$16,324.91

Interest at 4% per annum from Nov. 11, 1947, to Dec. 31, 1947.....	84.93
---	-------

\$16,409.84

If not paid by 12-27-1947, add \$1.66532 interest per day thereafter. Four days allowed for check clearance.

If the above claim is not paid within a reasonable time, or satisfactory arrangements made for the payment thereof, your account will be referred to the Department of Justice for action. We regret it is necessary to so advise you.

Claim Receivable set up on Inventory Recapture is being billed separately.

Very truly yours,

/s/ M. B. HILL,

Assistant Manager.

MLLundberg:EMS,
RFC—Portland.

(File Copy.)

[Endorsed]: Filed April 24, 1956.

[Title of District Court and Cause.]

ANSWER

Comes now the defendant and for answer to plaintiff's complaint herein denies each and every allegation, thing and matter in said complaint contained and the whole thereof, except that defendant admits that the defendant herein is an Oregon corporation, admits that during the period referred to

in plaintiff's complaint that the Defense Supplies Corporation and its successor, Reconstruction Finance Corporation, conducted a meat subsidy program under the provisions of the regulations referred to in plaintiff's complaint, and admits that defendant was paid a subsidy in the amount of \$147.90, which was thereafter properly invalidated.

For a First, Further and Separate Answer and Defense, Defendant Alleges as Follows:

I.

Following the issuance of the purported orders of December 18, 1947, defendant duly protested said purported orders.

II.

There has been no determination of defendant's protests, as required by law.

the administrative remedies, now available to it.

defendant Alleges as Follows:

I.

In computing the amounts to which defendant was entitled as meat subsidy payments under the transactions on which plaintiff's claim is based, the Reconstruction Finance Corporation erroneously computed the value of all cattle slaughtered by defendant at the feeder subsidy rate, whereas said value should have been computed on the slaughtered live weights of feeder and non-feeder cattle as reported to the Reconstruction Finance Corporation by defendant.

For a Third Separate Answer and Defense, and Set-off, Defendant Alleges as follows:

I.

Plaintiff is indebted to defendant in the amount of \$16,324.91 for meat subsidy payments unlawfully withheld from defendant.

For a Fourth Further and Separate Answer and Defense and Counterclaim, Defendant Alleges as Follows:

I.

Plaintiff is indebted to defendant in the amount of \$16,324.91 for meat subsidy payments unlawfully withheld from defendant.

Wherefore, having fully answered, defendant prays that plaintiff take nothing by its complaint, and that defendant have judgment against the plaintiff in the sum of \$10,000.00.

/s/ WALTER J. COSGRAVE,
Attorney for Defendant.

H. KENT HOLMAN,
MAGUIRE, SHIELDS,
MORRISON & BAILEY,
Of Counsel.

Affidavit of Service by Mail attached.

[Endorsed]: Filed August 13, 1956.

[Title of District Court and Cause.]

REPLY

Comes now the plaintiff, United States of America, and for reply to defendant's answer, admits, denies and alleges as follows:

I.

With regard to defendant's first, further and separate answer and defense, plaintiff denies each and every matter, allegation and thing therein contained.

II.

With regard to defendant's second, separate answer and defense, plaintiff denies that the computation of defendant's meat subsidy payments by the Reconstruction Finance Corporation was erroneous, and reasserts the propriety of such computation as alleged in plaintiff's complaint.

III.

With regard to defendant's third, separate answer and defense and set-off plaintiff denies each and every matter, allegation and thing therein contained.

IV.

With regard to defendant's fourth, further and separate answer and defense and counterclaim, plaintiff denies each and every matter, allegation and thing therein contained.

Wherefore, having fully replied to defendant's answer, plaintiff prays that defendant take nothing

thereby and prays further for judgment, as set forth in plaintiff's complaint.

C. E. LUCKEY,

United States Attorney,
District of Oregon;

/s/ THOMAS B. BRAND,

Assistant U. S. Attorney.

Affidavit of Service by Mail attached.

[Endorsed]: Filed October 1, 1956.

[Title of District Court and Cause.]

MOTION TO STAY PROCEEDINGS

Comes now the Plaintiff, United States of America, appearing by and through C. E. Luckey, United States Attorney for the District of Oregon, and Thomas B. Brand, Assistant United States Attorney, and respectfully moves the Court for an Order to stay proceedings in the above-entitled matter, pending the outcome of an administrative appeal heretofore granted the Defendant, Clackamas Meat Co., Inc., by the Reconstruction Finance Corporation.

C. E. LUCKEY,

United States Attorney,
District of Oregon;

/s/ THOMAS B. BRAND,

Assistant United States
Attorney.

Affidavit of Service by Mail attached.

[Endorsed]: Filed March 25, 1957.

[Title of District Court and Cause.]

MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR STAY OF PROCEEDINGS

Plaintiff respectfully submits to the Court that Plaintiff's motion for Stay of Proceedings should be granted in order to enable Defendant to exhaust the administrative remedies, now available to it.

Defendant desires a factual determination of the issues involved herein, which cannot be granted in this Court. *Yakus v. U.S.* 321 U.S. 414; *U.S. v. Luer Packing Co.*, 110 F Supp. 792; *Riverview Packing Co. v. RFC*, 207 F 2nd 361; *U.S. v. Bass*, 215 F 2nd 9; *U.S. v. Trenton Packing Co.*, 133 F. Supp. 69.

Defendant being a dissolved corporation, pursuant to proclamation of the Governor on December 30, 1955, it is submitted that the matter should be stayed in this Court rather than dismissed in order to avoid the possibility that the time for filing suit against it as a dissolved corporation might run, under O.R.S. 57.630, before the defendants administrative remedies are exhausted, and to avoid the further necessity of plaintiff having to institute a new civil action against Defendant in the event that Defendants protest and appeal is denied, with the requisite further expenditure of time, inconvenience and expense, as well as having to meet the possible defense of *res judicata*.

The propriety of such a stay in the District Court pending administrative action and appeal to the Emergency Court of Appeals has been upheld in the cases of *Reconstruction Finance Corp. v. Service Pipeline Co.*, 198 F. 2nd 775; *U.S. v. Bass*, 215 F 2nd 9; *U.S. v. Baellow*, No. 9067, Western District of Missouri, October, 1955, a copy of the Court's memorandum order being attached hereto.

Respectfully submitted,

C. E. LUCKY,

United States Attorney,
District of Oregon;

/s/ THOMAS B. BRAND,

Assistant United States At-
torney.

(Copy.)

In the District Court of the United States for the
Western District of Missouri Western Division

No. 9067

UNITED STATES OF AMERICA,

Plaintiff,

vs.

M. E. BAELLOW,

Defendant.

MEMORANDUM AND ORDER

Having now considered defendant's motion to stay proceedings herein, and his brief in support

thereof, and plaintiff's brief in opposition thereto, I believe that the motion should be sustained, and that further proceedings in this action should be stayed for such time as will allow defendant a reasonable opportunity to exhaust his administrative remedies, already begun, of protesting to Reconstruction Finance Corporation the claimed findings of wilful violation of War Food orders 75 and 75.2, and, if timely pursued but unsuccessful, any available appellate remedy that he may wish, or be advised to pursue, and It Is So Ordered, but if such remedy or remedies be not diligently prosecuted, or be abandoned, or be diligently prosecuted to final conclusion but terminate adversely to defendant, the Court will, upon motion and such showing, terminate this stay.

Done, this 19th day of October, 1955.

/s/ CHARLES E. WHITTAKER,
District Judge.

Kansas City, Missouri.

[Endorsed]: Filed March 25, 1957.

[Title of District Court and Cause.]

AFFIDAVIT IN SUPPORT OF PLAINTIFF'S
MOTION FOR STAY OF PROCEEDINGS

State of Oregon,

County of Multnomah—ss.

I, Thomas B. Brand, Assistant United States Attorney for the District of Oregon, being first duly sworn, depose and say:

That I am one of attorneys for Plaintiff, United States of America, in the above-entitled action, and that I make this affidavit in support of plaintiff's motion for a stay of proceedings, during the pendency of an appeal by Defendant to the Reconstruction Finance Corporation relating to the alleged orders attached to Plaintiff's complaint herein, and during the pendency of an appeal to the United States Emergency Court of Appeals from any adverse ruling of the Reconstruction Finance Corporation.

It appears from the files and pleadings herein, and more particularly, from Defendants Response to Plaintiff's Request for Admissions No. 11, that Defendant did make an administrative protest following receipt of the letters of December 18, 1947, copies of which are attached to Plaintiff's complaint.

I am informed and therefore believe and declare herein, that Defendant desires to further perfect

its administrative appeal, demand a complete administrative hearing, and exercise its statutory right to a hearing before the United States Emergency Court of Appeals, if deemed appropriate, all pursuant to USC Tit. 50 App., Sec. 924.

C. E. LUCKY,
United States Attorney
District of Oregon;

/s/ THOMAS B. BRAND,
Assistant United States At-
torney.

Subscribed and sworn to before me this 25th day
of March, 1957.

[Seal] /s/ V. E. HARR,
Notary Public for Oregon.

My Commission Expires: 2/18/61.

[Endorsed]: Filed March 25, 1957.

[Title of District Court and Cause.]

MOTION FOR SUMMARY JUDGMENT

Comes now the plaintiff, United States of America, by C. E. Lucky, United States Attorney for the District of Oregon, and Thomas B. Brand, Assistant United States Attorney, and pursuant to the provisions of Rule 56 of the Federal Rules of Civil Procedure, and based upon the pleadings and ex-

hibits herein, plaintiff's Request for Admission of Facts and authenticity of documents, and defendant's response thereto, and the Affidavit attached hereto, plaintiff respectfully moves tthe Court for summary judgment, as prayed for in plaintiff's complaint.

C. E. LUCKY,

United States Attorney

District of Oregon;

/s/ THOMAS B. BRAND,

Assistant United States At-
torney.

[Title of District Court and Cause.]

AFFIDAVIT

State of Oregon,

County of Multnomah—ss.

I, Thomas B. Brand, Assistant United States Attorney for the District of Oregon, being first duly sworn, depose and say:

That I am one of the attorneys for plaintiff, United States of America, in the above-entitled action; that I make this affidavit in support of plaintiff's Motion for Summary Judgment, attached hereto.

At a hearing before The Honorable Gus J. Solomon, Judge of the above-entitled court, this matter

came on for hearing upon plaintiff's Motion to Stay Proceedings, pending the outcome of an appeal to the Reconstruction Finance Corporation, which the defendant, Clackamas Meat Co., Inc., proposed to institute. It was at that time ordered by the Court that the trial herein set for April 29, 1957, should be stricken if, prior to the 29th day of April, 1957, the Clackamas Meat Co., Inc., instituted an appeal with the Reconstruction Finance Corporation.

I am informed by letter from the United States Department of Justice, dated May 6, 1957, and therefore believe and declare herein, that the Reconstruction Finance Corporation received no protest nor appeal from the defendant, Clackamas Meat Co., Inc., as of the 2nd day of May, 1957.

/s/ THOMAS B. BRAND.

Subscribed and sworn to before me this 27th day of May, 1957.

[Seal] /s/ V. E. HARR,
Notary Public for Oregon.

My Commission Expires: 2/18/61.

[Endorsed]: Filed May 27, 1957.

In the United States District Court
for the District of Oregon

Civil No. 8579

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLACKAMAS MEAT CO., INC., an Oregon Corporation,

Defendant.

JUDGMENT ORDER

Based upon plaintiff's motion for summary judgment and the record herein

It Is Hereby Ordered and Adjudged that plaintiff have judgment against the defendant, Clackamas Meat Co., Inc., an Oregon corporation, in the sum of Twenty-two Thousand Seven Hundred and 80/100 Dollars (\$22,780.80) and that no costs be allowed to either party.

Made and entered this 10th day of June, 1957.

/s/ GUS J. SOLOMON,
District Judge.

Affidavit of service by mail attached.

[Endorsed]: Filed June 11, 1957.

[Title of District Court and Cause.]

MOTION

Comes now the defendant and moves the Court for an order setting aside the judgment order heretofore entered in favor of plaintiff and against defendant, on the 10th day of June, 1957, upon plaintiff's motion for summary judgment on the basis of the affidavit of defendant's attorney attached hereto.

MAGUIRE, SHIELDS, MOR-
RISON & BAILEY,
Attorneys for Defendant.

State of Oregon,
County of Multnomah—ss.

This is to certify that the foregoing Motion is made in good faith, not for the purpose of delay, and that in my opinion the same is well founded in law.

/s/ W. J. COSGRAVE,
Of Attorneys for Defendant.

[Title of District Court and Cause.]

AFFIDAVIT

State of Oregon,
County of Multnomah—ss.

I, Walter J. Cosgrave, being first duly sworn, depose and say that I am the attorney for the defend-

ant in the above-entitled action and that I make this affidavit in support of the defendant's motion for an order setting aside the judgment heretofore entered herein.

That I am now advised by the United States Attorney's Office that the United States intends to proceed against Mr. John Parker, a former stockholder of the defendant corporation, and that it is necessary in the interest of justice that the said John Parker be permitted to pursue in behalf of the defendant corporation such defenses and setoffs as are available to said corporation.

/s/ W. J. COSGRAVE.

Subscribed and sworn to before me this 20th day of June, 1957.

[Seal] /s/ ADA HEREFORD,
Notary Public for Oregon.

My Commission Expires: 5/23/61.

Affidavit of Service by mail attached.

[Endorsed]: Filed June 21, 1957.

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice is hereby given that Clackamas Meat Company, Inc., the defendant above-named, hereby appeals to the United States Court of Appeals for the

Ninth Circuit from the judgment entered herein on the 10th day of June, 1957, and from the whole thereof.

/s/ WALTER J. COSGRAVE,
Attorney for Appellant.

Of Counsel:

MAGUIRE, SHIELDS, MORRI-
SON & BAILEY.

[Endorsed]: Filed July 10, 1957.

[Title of District Court and Cause.]

COST BOND ON APPEAL

Whereas, in the District Court of the United States for the District of Oregon, in the above-entitled cause, a judgment was rendered against the above-named defendant and in favor of the above-named plaintiff, and said defendant has filed Notice of Appeal from said judgment,

Now, Therefore, the undersigned Clackamas Meat Company, Inc., principal, and American Automobile Insurance Company, a corporation of the State of Missouri, qualified to do and transact a general surety business within the State of Oregon, as surety, are held and firmly bound unto the United States of America in the full sum of Two Hundred Fifty Dollars (\$250.00). The condition of said bond is that the undersigned shall pay all costs if the appeal is dismissed or the judgment affirmed, or such costs as the Appellate Court may award if the

judgment is modified, to the extent of this undertaking.

Sealed with our seals and dated this 10th day of July, 1957.

[Seal]

AMERICAN AUTOMOBILE IN-
SURANCE COMPANY,
Surety;

By /s/ WILLIAM H. EAGLETON,
Its Attorney in Fact.

Countersigned:

/s/ C. P. MAAS,
Agent.

CLACKAMAS MEAT COM-
PANY, INC.,
Principal;

By /s/ WALTER J. COSGRAVE,
Its Attorney.

[Endorsed]: Filed July 10, 1957.

[Title of District Court and Cause.]

STATEMENT OF POINTS

Comes now the defendant-appellant, and files this, its Statement of Points, on which defendant-appellant intends to rely on appeal of this cause, to wit:

1. The trial court erred in entering summary judgment for plaintiff based upon the pleadings and the record herein.

Respectfully submitted this 22 day of July, 1957.

/s/ WALTER J. COSGRAVE,
Attorney for Defendant-
Appellant.

Service of copy acknowledged.

[Endorsed]: Filed July 22, 1957.

[Title of District Court and Cause.]

DOCKET ENTRIES

1956

Apr. 24—Filed complaint.

Apr. 25—Issued summons to marshal.

May 7—Filed corp. commissioner's return of service on deft. Clackamas Meat Co., Inc.

May 17—Filed Summons with Marshal's return.

May 21—Filed & Entered stipulation allowing defts. to June 16 to answer.

May 21—Filed & Entered Order allowing defts. to June 16 to answer.

May 29—Filed plaintiff's request for admission of facts and authenticity of documents.

June 21—Filed stipulation.

June 21—Filed Motion.

June 21—Filed & Entered Order extending time to answer to and including July 21, 1956.

July 20—Filed stipulation & motion for order allowing deft. to & including Aug. 10, 1956, to answer, etc.

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July 20—Filed & entered Order allowing deflt. to & inc. Aug. 10, 1956, to answer, etc.

Aug. 13—Filed Answer to plaintiff's request for admissions.

Aug. 13—Filed Answer.

Aug. 20—Entered Order setting for Pretrial Conf. on Oct. 15, 1956.

Oct. 1—Filed reply.

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Mar. 11—Entered order setting for P. T. C. on April 8, 1957.

Mar. 25—Filed motion of pltf. to stay proceedings.

Mar. 25—Filed affidavit in support of pltf's. motion to stay proceedings.

Mar. 25—Filed memorandum in support of pltf's. motion to stay proceedings.

Apr. 8—Entered order denying pltf's. motion to stay proceedings.

Apr. 8—Record of Pretrial Conference.

Apr. 8—Entered order setting for trial April 16, 1957.

Apr. 16—Entered order striking trial date of April 16, 1957, and resetting to April 29, 1957, with condition that case may be referred to the Reconstruction Finance Committee before April 29, 1957, by the parties and that the trial date of April 29, 1957, be stricken if the case is referred; with further order that if parties desire a trial after consideration by R.F.C. that said request be made by June 10, 1957.

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May 27—Filed affidavit.

May 27—Filed Motion for Summary Judg.

June 10—Record of hearing on pltf's. motion for summary judgment.

June 10—Entered Order allowing plft's. Motion for Summary Judgment.

June 11—Filed Judgment in favor of pltf. in sum of \$22,780.80.

June 21—Filed deft's. Motion to set aside judgment entered 6/10/57.

June 26—Filed praecipe U.S. for certified copy transcript judgment dkt. Issued 6/27/57.

July 2—Entered Order re-setting hearing on deft's. Motion to set aside judgment to July 5, 1957.

July 5—Entered Order denying deft's. Motion to set aside judgment 6-10.

July 10—Filed notice of appeal by defendant.

July 10—Filed cost bond on appeal.

July 22—Filed designation of record on appeal.

July 22—Filed statement of points.

Aug. 1—Filed Transcript of proceedings of June 10, 1957.

Aug. 1—Filed Appellees Designation of Record on Appeal.

Aug. 1—Filed Transcript of proceedings of April 16, 1957.

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

United States of America,
District of Oregon—ss.

I, R. DeMott, Clerk of the United States District Court for the District of Oregon, do hereby certify that the foregoing documents consisting of Complaint; Corporation Commissioner's return of service; Stipulation re extension of time to file answer; Order extending time for defendant to answer; Plaintiff's request for admission of facts and authenticity of documents; Stipulation re extension of time to answer complaint and plaintiff's request for admission of facts, etc.; Motion for extension of time to answer complaint and plaintiff's request for admission of facts, etc.; Order granting extension of time in which to answer complaint and plaintiff's request for admission of facts, etc.; Stipulation re extension of time to answer complaint and plaintiff's request for admission of facts, etc.; Motion for extension of time to answer complaint and plaintiff's request for admission of facts, etc.; Order granting extension of time in which to answer complaint and plaintiff's request for admission of facts, etc.; Answer; Answer to plaintiff's request for admissions; Reply; Plaintiff's motion to stay proceedings; Memorandum in support of plaintiff's motion for stay of proceedings; Affidavit in support of plaintiff's motion for stay of proceedings; Blotter entry re trial date; Plaintiff's motion for summary judgment; Blotter entry on order allowing plaintiff's motion for summary judgment.

ment; Judgment order; Defendant's motion for order to set aside judgment; Notice of appeal; Cost bond on appeal; Statement of points; Designation of record on appeal; Appellee's designation of record on appeal; and Transcript of docket entries, constitute the record on appeal from a judgment of said court in a cause therein numbered Civil 8579, in which Clackamas Meat Co., Inc., an Oregon corporation, is the defendant and appellant and United States of America is the plaintiff and appellee; that the said record has been prepared by me in accordance with the designations of contents of record on appeal filed by the appellant and appellee, and in accordance with the rules of this court.

I further certify that there is enclosed herewith the reporter's transcript of proceedings of April 16 and June 10, 1957.

I further certify that the cost of filing the notice of appeal, \$5.00, has been paid by the appellant.

In Testimony Whereof I have hereunto set my hand and affixed the seal of said court in Portland, in said District, this 12th day of August, 1957.

[Seal] R. DeMOTT,
Clerk;

By /s/ THORA LUND,
Deputy.

[Endorsed]: No. 15682. United States Court of Appeals for the Ninth Circuit. Clackamas Meat Co., Inc., a Corporation, Appellant, vs. United States of America, Appellee. Transcript of Record. Appeal from the United States District Court for the District of Oregon.

Filed August 13, 1957.

Docketed August 23, 1957.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for the
Ninth Circuit.